THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.30047 of 1995

ORAL ORDER:

This writ petition is filed seeking to quash the Award passed by the first respondent-Industrial Tribunal in I.D.No.86 of 1989 dated 12.2.1993 to the extent of not granting backwages to the petitioner.

It appears, the services of the petitioner were dispensed with after conducting a detailed enquiry into certain charges of misappropriation made against him. Thereafter, petitioner raised a dispute before the conciliation machinery and thereafter the matter was referred to the Ministry of Labour for being considered for referring to Industrial Tribunal-1 for adjudication of the following issue:

> "Whether the action of the management of Syndicate Bank in dismissing from service Sri A.Venkat Rao is justified? If not, to what relief is the workman entitled".

It is the case of the petitioner/workman that he discharged his duties to the utmost satisfaction of the respondent-Bank without any complaints whatsoever. While so, the petitioner was issued with a charge memo dated 10.12.1982 stating that he misappropriated a sum of Rs.45-80 which was received by him for the purpose of payment of Telegram bill and intentionally withdrew a sum of Rs.45/- from the S.B. Account on 13.11.1981 and another charge is that the petitioner picked up Rs.20/- note on 12.4.1982 from the cash cabin. The petitioner submitted his explanation denying the allegations. After conducting a detailed enquiry into the matter, a show cause notice was issued to the petitioner and the petitioner submitted his explanation to the said show cause notice. Thereafter, the petitioner was dismissed from service, which is illegal, arbitrary and against principles of natural justice.

The respondent-Bank filed a detailed counter before the Industrial Tribunal contending that the material averments of the claim statement

are not correct. It cannot be said that the enquiry was not conducted in a fair manner. The workman was involved in fraudulent withdrawal of money from the customers account. Therefore he is involved in dishonesty and moral turpitude, which tarnishes the image of the Bank. The charges are proved in full. The petitioner does not deserve any sympathy.

On the basis of the evidence on record, the Tribunal below came to the conclusion that;

> "In this case, the Standing Orders of the service conditions of the Respondent Bank clearly shows that the previous service record of the workman should also be taken into account while imposing punishment. The management contention is that they have also taken the above issue into consideration but they only gave proper punishment in the said circumstances is nothing but dismissal from service. In this connection, I would like to mention that it is an admitted fact that the previous entire service of the workman is without any punishment and he did not involved in any offence of this nature previously. If the workman is involved once or twice in the offence of this nature previously during his tenure of service, certainly the workman did not deserve any sympathy or mercy of the management. But here in this case, it is clear that the previous service of the workman is clear and without blame. He also gave reasoning that his hard domestic circumstances forced to misappropriate and cheat Rs.45/- and also Rs.45-80 ps. under the charges one and two respectively.
>
> In view of the above facts and circumstances, I am of the clear opinion that this Tribunal with quantum of punishment interfere under Section 11A of the Industrial Dispute Act, 1947 and I consider that the capital punishment for dismissal from service is disproportionate to the proved charges against the workman and I am of the clear opinion that the ends of justice be met if the workman will be appointed in the bank as Attender without any backwages. He is entitled for attendant benefits.
>
> In the result, I find that the action of the management

> of Syndicate Bank in dismissing from service Sri A.Venkat Rao is not justified. The respondent is directed to reinstate the workman. The workman is not entitled to get any backwages, but he is entitled for attendant benefits".

In view of the above, I am of the opinion that the Tribunal below has not committed any error in coming to the conclusion that the petitioner is not entitled for any backwages for the period he was out of employment while granting relief of reinstatement. No case is made out to interfere with the award passed by the Tribunal below. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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C.V.RAMULU, J

Date: 7.11.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.30047 of 1995

7.11.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.30047 of 1995

Date: 7th November, 2006

Between:

A.Venkat Rao

.. Petitioner

And

The Industrial Tribunal-I,
1st floor, Chandravihar,
M.J.Road, Hyderabad, rep. by its

Presiding Officer & another.

.. Respondents